

# **EXHIBIT A**

Opening - People

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THE COURT: Overruled.

MS. FREUND: By Miss Gonzalez who worked in that small corner grocery store on 180th Street and Third Avenue.

Ladies and gentlemen at the end of the case I will stand before you and I would ask you to render a verdict consistent with the credible evidence in this case, a verdict of guilty. Thank you.

THE COURT: Mr. Segal do you wish to make an opening?

MR. SEGAL: Yes, Judge.

MR. SEGAL: Mr. Foreman, ladies and gentlemen of the jury. You heard in the voir dire just a few days ago that the prosecution is under a duty at all times to go forward. They're under a duty at each and every stage to prove their case to you beyond a reasonable doubt and that defendant at no time is under any obligation to do anything. His Honor even told you just now a few moments ago that the defense is under no obligation even to open up to the jury but after hearing what the prosecution has said to you I believe it is important that I open up to you that I say to you what the defense will prove to you from the witnesses that the prosecution is going to

## Opening - Defense

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present to you.

It is an unusual case. We have unusual circumstances. You're going to find out and the defense will show you through [REDACTED], the complaining witness in this case, number one, Miss [REDACTED] is an epileptic, that Miss [REDACTED] is on medication, Dilantin. Further that Miss [REDACTED] had been told by doctors at Lincoln Hospital in the alcoholic treatment program that she should not drink. However you will find out through Miss [REDACTED] that she walks the streets at night in the early morning hours knowing she shouldn't drink and mix her medicine with liquor. In fact she drinks as you will find out Olde English 800 or 500 beer and you will find out that is very, very potent type of beer and she mixes it with her Dilantin. You'll find out that Miss [REDACTED] has on prior occasion been beaten up by her boyfriend, a fellow by the name of Robert Lee Dwight. You will find that out also.

More importantly you will find out this incident took place approximately forty minutes, maybe a longer, maybe a little shorter, maybe thirty five, forty, forty five minutes but you will find out one very important fact from the incident that Miss

1 [REDACTED] - People - Direct

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2 THE COURT: Any other questions, Ms. Freund?

3 MS. FREUND: No, not at this time.

4 THE COURT: I will see counsel in the side  
5 bar for a moment.

6 (Whereupon a discussion held off the record  
7 at the side bar between the Court, Miss Freund  
8 and Mr. Segal.)

9 THE COURT: Go ahead -- one other question  
10 before Mr. Segal asks you questions.

11 Miss [REDACTED] you said you went to that  
12 grocery store to buy a can of beer; is that  
13 correct?

14 THE WITNESS: Yes.

15 THE COURT: Had you consumed any beer before  
16 that on that date?

17 THE WITNESS: Yes, I did.

18 THE COURT: How much before the time you  
19 went to the grocery store did you have a beer?

20 THE WITNESS: Well, before I went to that  
21 grocery I was with my mother and her boyfriend  
22 and I had got high in his house and -- but before  
23 I left the house I had been sleeping and woke  
24 up. Then I went to my sister's house and I  
25 had washed up and I had changed my clothes before

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I went uptown because I need to go with a guy up there and I was going up there to see him but when I went there he wasn't home. That is when I went around the corner to get the beer and get the cab to go home.

THE COURT: You said you had been high that evening?

THE WITNESS: Yes, but I slept it off.

THE COURT: What time did you wake up?

THE WITNESS: About quarter to twelve.

THE COURT: How long had you been sleeping; do you remember?

THE WITNESS: A good two hours or more.

THE COURT: And did you feel high anymore?

THE WITNESS: No, I didn't.

THE COURT: How many beers had you consumed before that? Did you drink anything besides beer?

THE WITNESS: No.

THE COURT: About how many beers did you have before that?

THE WITNESS: We had about four or five quarts.

THE COURT: Among the three of you?

People - Direct

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THE WITNESS: Yes.

THE COURT: About how much did you drink;  
do you remember?

THE WITNESS: No.

THE COURT: You split four or five quarts  
between the three of you?

THE WITNESS: Well, each person would get  
a glass and maybe a half glass.

THE COURT: And do you take any drugs?

THE WITNESS: No, I don't.

THE COURT: What we want to find out if  
you were intoxicated at the time?

THE WITNESS: No.

THE COURT: When you went into that grocery  
store?

THE WITNESS: No, I wasn't.

MS. FREUND: May I ask one more question?

THE COURT: Yes.

CONTINUED DIRECT EXAMINATION

BY MS. FREUND:

Q Miss [REDACTED] do you drink beer often?

A Yes.

Q Are you used to drinking beer?.

A Yes.

- People - Direct  
- People - Cross  
MS. FREUND: Nothing further.

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CROSS EXAMINATION

BY MR. SEGAL:

Q [REDACTED] you're an epileptic?

A Yes.

Q Do you take medication for it?

A Once a day, Phenobarbital and Dilantin.

Q How much a day Phenobarbital and Dilantin?

A I take Phenobarbital twice a day and Dilantin  
once three times a day.

Q And you take them in the morning, the evening  
and at night; is that correct?

A Yes.

Q Are you told when you take that medication not  
to have any liquor with it?

A Yes.

Q Because the liquor can effect the medication;  
am I right?

A Yes.

Q On the day this happened, June 23rd, 1984, --  
let me ask you this, you have been taking that medication  
for how long?

A About five years.

Q You take it regularly; am I right?

[REDACTED] - People - Cross

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A Yes.

Q You take each day?

A Yes.

Q And on that Friday, going into Saturday morning when the incident you had taken your Dilantin and Phenobarbital that day; correct?

A Yes.

Q Before you went out to get the beer or -- withdrawn. What time did you take the Phenobarbital and Dilantin on the evening of the --

A Excuse me?

MR. SEGAL: Withdrawn.

THE COURT: I know of the 22nd into the morning of the 23rd, when had you taken your medication?

THE WITNESS: When had I taken it?

THE COURT: Yes.

THE WITNESS: I took it that morning.

THE COURT: Morning of the 22nd?

THE WITNESS: Yes.

THE COURT: Friday morning.

THE WITNESS: Yes.

Q Did you take it before you had the beers?

A I had taken it hours before I had beers.



[REDACTED] - People - Cross

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Q Excuse me?

† A I had taken it hours before I had the beer.

Q Hours before and you had taken Dilantin and Phenobarbital?

A That is before they had put me on Phenobarbital.

Q What were you taking at the time of the incident, at the time the incident happened?

A Only Dilantin.

Q And you took that three times a day?

A Yes.

Q And the Dilantin did that make you tired and sleepy?

A No.

Q Did the Dilantin do anything to you physically?

A No.

Q Mentally or anything like that?

A No.

Q Did Dilantin just --

A Control.

Q Had no side effects on you?

A No.

Q At all?

A No.

Q Did you have anything to drink at that time

People - Cross

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1  
2 when you had Dilantin?

3 A Did I drink a lot?

4 Q Yes.

5 A Not that often.

6 Q You drank while you said you were taking the  
7 Dilantin?

8 A Yes.

9 Q I want to go to the lineup that you had at the  
10 police station; okay?

11 A Uh-huh.

12 Q You said that the police brought you into the  
13 lineup room and they had to raise you up on a platform;  
14 right?

15 A Yes.

16 Q Because you couldn't see out of the window?

17 A Right.

18 Q And then the shade went up and the police asked  
19 you to look at the people in the room; is that right?

20 A Yes.

21 Q How long did it take you before you were able  
22 to pick somebody out?

23 A I don't know. I wasn't timing it.

24 Q Do you know if it is nearer to -- do you have  
25 any idea, can you think about how long it took you whether

People - Direct

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A 150th Street between Cortlandt and Melrose.

Q And you said you walked to 169th Street?

A And Third Avenue.

Q That was your girlfriend's home?

A Yes.

Q And what did you do at your girlfriend's home?

A We had went to the store and got some more beer.

Q Did you stay there for a period of time?

A Yes, I did.

Q Where, if any place did you go from there, Miss Johnson?

A Excuse me?

Q Where did you go from there?

A I went and I walked up to 180th Street and Third Avenue.

Q Now, you told us that you had been drinking?

A Yes.

Q Could you tell this jury how much you had been drinking that evening?

A Approximately I really don't know.

THE COURT: How many beers do you remember having with your mother and her boyfriend?

THE WITNESS: At least five quarts.

THE COURT: You drank five quarts?

██████████ - People - Direct

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THE WITNESS: No.

THE COURT: Three of you drank five quarts?

THE WITNESS: Yes.

THE COURT: Do you know how much of those five quarts you drank personally?

THE WITNESS: No, I don't.

THE COURT: About how many glasses of beer?

THE WITNESS: I had eight, nine.

THE COURT: Eight of nine glasses of beer?

THE WITNESS: Yes.

THE COURT: And how many glasses of beer did you have at your girlfriend's house?

THE WITNESS: Two.

THE COURT: Go ahead, Miss Freund.

Q So you had been drinking through that evening?

A Yes.

Q Miss ██████████ are you an alcoholic?

A Yes, I am.

Q At the time that you went into the store can you please tell us what happened?

A I went into get another can of beer and I was -- I knew the lady at the counter and we was talking and then --

THE COURT: Do you know her name?

THE WITNESS: No, I didn't know her by name.

1 [REDACTED] - People - Direct

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2 Q What did you tell Detective Newbert as to the  
3 description of the perpetrator?

4 MR. SEGAL: I have an objection.

5 THE COURT: Overruled.

6 A He was male, black with a short cut hair about five-  
7 seven, five-eight. Maybe 150, 160, about five-seven, five-  
8 eight and I described clothes he had on.

9 THE COURT: What did you say?

10 THE WITNESS: That he had on a beige pants with  
11 a beige shirt with stripes on the side and that he  
12 had a moustache.

13 Q You stated that you went to Jacobi Hospital?

14 A Yes.

15 Q Miss [REDACTED] do you have any previous illnesses?

16 In other words illnesses that have nothing to do with what this  
17 man did to you?

18 A Yes, I do.

19 Q Can you please describe to the ladies and gentlemen  
20 of the jury what that is or what those are?

21 A I have epilepsy.

22 Q Do you take medication?

23 A Yes, I do.

24 Q Can you please tell us what medication you take?  
25

People - Direct

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A I take Dilantin and some Phenobarbital.

THE COURT: Dilantin, and what else?

THE WITNESS: Phenobarbital.

Q For how long have you been taking this medication?

A Five years.

THE COURT: Were you taking both on September 23, 1984, or just one?

THE WITNESS: Just one at that time.

THE COURT: What were you taking on September 23rd?

THE WITNESS: Dilantin.

Q Can you please tell us what injuries you sustained?  
Can you please tell us what injuries were caused by the man in the park and the man in the building?

A I received cuts. I was internal bleeding and I was blinded in one eye.

THE COURT: What eye, ma'am?

THE WITNESS: My left eye.

MS. FREUND: I am going this be marked.

(Photograph marked as People's Exhibit 1 for identification.)

COURT OFFICER: People's 1 has been marked for identification.

Q Ask that be shown to Miss [REDACTED] Do you recognize

[REDACTED] - People - Cross

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1  
2 Q What is the name of the program?

3 A Lincoln Mental and Drug Abuse.

4 Q Program; is that correct?

5 A Yes.

6 Q How long have you been in that program?

7 A How long have I been in it now?

8 Q Yes.

9 A I don't know when I started.

10 Q When this incident occurred in June of '84 you were  
11 not in the program; am I correct?

12 A No I wasn't.

13 Q In June of '84 you were drinking -- what is the name  
14 of that beer, Old English 800 beer; is that correct?

15 A Yes.

16 Q You would drink a quart a day?

17 A More than a quart a day.

18 Q Would you drink more than a quart a day?

19 A Yes.

20 Q How long would you say you had been an alcoholic?

21 A Excuse me?

22 Q How long have you been an alcoholic, drinking a lot?

23 A Ever since I ran away from home.

24 Q And that is many years ago; is that correct?

25 A Yes.

**People - Cross**

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Q In June of '84 when this incident occurred had you been with your mother prior to that; is that right?

A Yes.

Q You had been with your mother and boyfriend; is that correct?

A My mother and her boyfriend.

Q And her boyfriend; correct?

A Yes.

Q And you would spend some time at your mother and boyfriend's home; is that correct?

MS. FREUND: Objection.

THE COURT: Overruled.

Q Is that correct?

A Yes.

Q You had been drinking at that place; is that correct?

A Yes.

Q And drinking started early in the evening; is that right?

A Yes.

Q You got there what time, four, five o'clock in the afternoon?

A No. It was later.

Q What time did you get over to your mother's boyfriend's home?



People - Cross

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A I didn't look at the clock.

Q When you got over there you started drinking; right?

A Yes.

Q And you said it was about you had eight or nine glasses of beer?

A Yes.

Q You fell asleep; right?

A Yes.

Q And you didn't wake up until about twelve o'clock; is that correct?

A It was after twelve.

Q Now, on this day, June 23rd -- well, the incident happened on June 23; right?

A yes.

Q On June 22nd had you taken your medication?

A Yes.

Q What medication were you taking on June 23?

A Dilantin.

Q Dilantin; right?

A Yes.

Q How many miligrams were you taking?

A I don't know.

Q Were you taking one pill or two pills?

A Yes.

[REDACTED] - People - Cross

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Q Withdrawn. I don't mean that way. How many times a day did you take Dilantin?

A Prescribed to take one capsule three times a day.

Q One capsule three times a day; correct?

A Yes.

Q Were you taking one in the morning?

A Yes.

Q One in the evening?

A Yes. And one before bed.

Q One before bedtime; correct?

A Yes.

Q How many milligrams was each capsule; do you know?

A I don't know.

Q Do you which doctor prescribed that for you?

A No I don't.

Q Did you get it from the hospital?

A No I didn't.

Q Who did you get it from?

A The, you know, like the doctor's office that they have. You could go on the street like.

Q You mean neighborhood medical center?

A Yes.

Q And you remember when you first started taking Dilantin?

People - Cross

3.

A No I don't.

Q Was that after you were assaulted by your boyfriend?

MS. FREUND: Objection.

THE COURT: Overruled -- sustained as to form.

Q Did there come a time when you had a fight with your boyfriend, Mr. Robert Lee Dwight?

A Yes.

Q And you were beaten up pretty badly by him; is that correct?

A Not badly. I had a black eye.

Q You had a black eye?

A Yes.

Q And after that incident did there come a time when you started having epileptic seizures?

A Yes.

Q And did the hospital tell you that the reason you had the epilepsy was because of the incident with your boyfriend?

A Yes, from being hit on the side of the head.

Q Is that what they told you?

A Yes.

Q Do you remember when that incident was? Was it '79 or '80?

A I don't remember.

Q You started taking Dilantin at that time; is that

People - Cross

46

correct?

A Yes.

Q Did you take any other medication with Dilantin?

A No.

Q Did they also tell you when you started taking the Dilantin that you're not to mix it with any other kind of medication, or liquor or alcohol; is that correct?

A Yes.

Q Because they told you the effects that it could have on you; is that correct, ma'am?

A Yes, it is.

Q Even though they told you that you still mix your Dilantin with your beer; is that right?

A Yes.

Q And back in June of '84 is it fair to say that you were drinking that Old English 800 beer?

A June of '84.

Q When this incident happened do you remember when the incident --

A Yes.

Q You were drinking Old English 800 beer, am I right?

A Yes.

Q And that was your steady type of drink; right?

A Yes.

[REDACTED] - People - Cross

40.

Q When you were with your mother and boyfriend did you have anything else besides the beer?

A No.

Q Didn't have any other alcohol?

A No I did not.

THE COURT: What were you drinking then? Were you drinking Old English 800 beer then?

THE WITNESS: Yes.

Q You said you had a number of glasses, eight or nine glasses of beer to drink. Then you fell asleep; is that correct?

A Yes.

Q And you woke sometime around twelve o'clock?

THE COURT: Said after twelve. Is that after twelve?

THE WITNESS: After twelve.

Q Did you take your Dilantin at that time?

A No I didn't.

Q Had you taken it before?

A Yes, before I start to drink.

Q Just before you started to drink you took the Dilantin; right?

A Yes. That was maybe two, three hours after I took the Dilantin,

People - Cross

4L

Q That you started to drink?

A Yes.

Q And you said there came a time when you were going to leave. You left your mother's boyfriend; is that correct?

A Uh-huh.

Q Do you remember --

Q THE COURT: Do you think this might be a good time to break?

MR. SEGAL: All right.

THE COURT: Members of the jury we will recess now for lunch. Resume at two o'clock. Once again, keep an open mind. Do not discuss the case among yourselves or with anyone else. Form no opinions at all about the case. You are excused until two o'clock.

(Whereupon the jury panel leaves the courtroom and the Court took a luncheon recess.)

#### AFTERNOON SESSION

COURT CLERK: Please note on the record presence in the courtroom counsel for the People, defense counsel, defendant and in the absence of the jury in their entirety.

THE COURT: Prior to recess the People offered in evidence a picture of the lineup, People's 10.